

Appendix

Cuba Positive Action Can Save Cuba and the Western Hemisphere

EXTENSION OF REMARKS
OF

HON. BRUCE ALGER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1962

Mr. ALGER. Mr. Speaker, inaction and lack of a firm U.S. policy has enabled the Russian Communists to establish a beachhead in the Western Hemisphere through conquest of Cuba. State Department ineptitude has now resulted in the Russians making an armed camp of Cuba with missiles pointed at the heart of the United States. A few days ago the President was assuring us that Russian weapons in Cuba were "merely defensive" and "no threat to the United States." The administration said Communist missiles in Cuba had only a range of 25 miles and we had absolutely nothing to worry about. In that past few days we are informed through the press that Russian Communist missiles in Cuba will have a range of 1,400 miles and bring within range the greater part of the United States. Still the President and the State Department see no threat from Cuba and continue to try to lull the American people into a sense of false security through humming lullabies which are soothing but totally unrelated to the facts. The situation is not yet hopeless as pointed out in the following editorial by David Lawrence in the U.S. News & World Report, issue of October 15, 1962.

CUBA CAN BE SAVED
(By David Lawrence)

The mistakes that have been made in the formulation of the policy of the United States toward Cuba seem to some extent to be in process of correction.

Informal conferences between Secretary of State Dean Rusk and the Foreign Ministers of several of the Latin American States are at least clarifying the issues.

Any military interposition by the United States alone would doubtless be disapproved by our neighbors to the south. It is, therefore, sensible to secure first as much agreement as possible among the Latin American powers on measures that do not involve a formal declaration of war or military operations at this time.

But, since measures "short of war" are necessary—such as the imposition of an economic blockade—it is essential that the main facts be made clear to the peoples of all countries.

It is beside the point for some of the Latin American spokesmen to argue that the Monroe Doctrine was a "unilateral" declaration. What does matter is that the principle laid down by the Monroe Doctrine has been accepted in formal resolutions adopted in various conferences held in recent years under the auspices of the Organization of American States.

The United States has realized for a long time that unilateral action is not desirable. But this only emphasizes the necessity for concerted action to accomplish what the Monroe Doctrine was set up to achieve.

The issues are plain: The Soviet Government has officially acknowledged that it has sent arms and ammunition to the Castro regime. The United States and its allies in this hemisphere construe this as a threat against the safety of all Latin American governments.

For several years the Soviets have been infiltrating Latin American governments and trying to subvert the institutions of nearly every country to the south of us with the avowed purpose of conquering them from within exactly as they have done in Cuba.

The countries in this hemisphere, therefore, face a threat to their independence. The Monroe Doctrine denounced any attempt by a European power to extend its system to this hemisphere. This commits the United States at least to resist such encroachment.

Certain questions, if not examined realistically, can become excuses for inaction and must be disposed of before unity of action can be achieved among our allies.

Thus, for instance, many governments, both inside and outside this hemisphere, have recognized the Castro regime as the legitimate government of Cuba. A simple remedy now is to withdraw that recognition.

Obviously, this is an action that must be taken by individual governments and cannot be imposed merely by international resolutions. But it is not unreasonable to remind every friendly country throughout the world that the American people may become tired of spending billions of dollars for what is known as foreign aid and also bearing the burden of maintaining large military forces abroad as a defense against Communist aggression when professed allies of this country seem unwilling to help safeguard the security of the United States.

It should be noted that the North Atlantic Treaty itself makes it obligatory for the United States to consider any attack on members of that alliance as an attack on the United States. This can mean instant involvement for us without so much as a declaration of war by our own Congress. The treaty requires immediate intervention in Europe to defend any country that is attacked. Are preparations for attack to be ignored? The Government at Washington would certainly join in imposing any economic blockade if our European allies ever sought such aid from us against the Soviets.

Can any Latin American Government regard itself as a sincere friend of the United States or really be concerned about protecting the independence of the nations of this hemisphere if it sets itself up as "neutral" in the situation that has arisen as between the United States and the Soviet Union or as between the Castro regime and this country? Isn't the presence of more than 4,500 Soviet military men and their weapons—including missiles—only 90 miles away, enough evidence of the possible threat to the safety of this country? Is it possible that the Mexican Government can close its eyes to what is happening? The Mexican President is quoted as saying he doesn't regard the Soviet buildup in Cuba to be a threat to peace in this hemisphere.

Will the Soviets be permitted to help the Castro Communists while other countries in

this hemisphere sit idly by? We, on our part, should help the Cuban exiles to organize their liberation movement.

It is a time for soul searching in Latin America, and it is to be hoped that the words of President Kennedy and Secretary Rusk and our diplomatic representatives will be taken to heart in the capitals to the south of us.

For it is the safety and security of all the free people in this hemisphere which are at stake. Unity of action by the countries of this hemisphere can still save the Cuban people.

The Malaxa Case

EXTENSION OF REMARKS
OF

HON. ESTES KEFAUVER

OF TENNESSEE

IN THE SENATE OF THE UNITED STATES

Friday, October 12, 1962

Mr. KEFAUVER. Mr. President, recently there has been considerable discussion in the Congress and in the press about the case of Nicolae Malaxa and the relationship of former Vice President Richard M. Nixon to Malaxa. In this connection, I may add that I think the manner in which this has come about is most unfortunate. Mr. Nixon chose to inject the issue of dealing with communism into the Governor's race in California, by charging that Gov. Pat Brown's administration had been soft on communism. In response to this, some have pointed to Mr. Nixon's connections with this Nicolae Malaxa, a resident alien who is alleged to have had both Nazi and Communist connections in his homeland of Rumania.

The Washington Star of Wednesday, October 10, quoted Malaxa's attorney as saying that the immigration hearings held in Malaxa's case had fully cleared Malaxa of these charges. I want to set the public record straight in this respect. I reviewed the Malaxa case closely, some months ago, and concluded that the proceedings involving him had been most irregular, and were such that the charges against him had not been fully explored. For one thing, when the charges were being considered, he refused to answer questions about his past. He claimed that because of procedural technicalities, he did not have to answer such questions.

On review, Attorney General Rogers later held that Malaxa should have answered the questions, but, nonetheless, upheld a decision in Malaxa's favor, even though Malaxa's unlawful silence had prevented a full inquiry into his past associations. This is set forth in some detail in a letter I wrote to Attorney General Robert F. Kennedy on April 11, 1962, in which I reviewed the Malaxa case and urged the Attorney General to

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consider it. I pointed out in this letter the procedural irregularities in the previous proceedings and the fact that war documents published by the Department in 1960 now present evidence against Malaxa. I referred to a secret telegram sent in 1941 to the German Minister in Rumania, which the Minister referred to Malaxa as "the financial mainstay" of the Iron Guard, which was the Rumanian Nazi Party. Mr. Malaxa's attorney now states that this document was declassified in 1955 and was presented against Malaxa in the immigration hearings. I have not yet had time to confirm this contention. The reported decisions in the Malaxa case deal in detail with the evidence against him, and make no reference to this document, thus indicating to me that it was not considered at the hearings. In any event, the evidence against Malaxa, coupled with the peculiar procedure which operated in his favor before, indicates to me that there is clearly room for doubt that his past Nazi and Communist associations were fully explored; and certainly it cannot be claimed that he refuted the charges against him when he refused to answer questions concerning his past Iron Guard, Nazi, and Communist associations.

On April 19, the Attorney General wrote to me, in response to my letter, that the Department of Justice would look into the matter at the first opportunity and would advise me further.

Since writing the Attorney General, I have had a number of conferences with Mr. Nicholas Katzenbach, the Deputy Attorney General. He told me he thought the record showed Mr. Malaxa to be an improper person for admission to the United States, and that he should have been excluded. He said he thought a strong case of previous improper conduct had been made before the hearing examiner, and fully justified such a holding against Malaxa; but Mr. Katzenbach advised that since the Board of Immigration Appeals, by a split decision, had reversed the hearing examiner, and Attorney General Rogers had affirmed the decision of the Board of Immigration Appeals, he felt it was not good public policy for one Attorney General to reverse the decision of a previous one, unless there was substantial and convincing evidence which had not been brought out in previous hearings.

With this administrative policy I agree, but I have some question as to its applicability in this case.

Mr. Katzenbach has advised that he is keeping the matter under consideration.

Mr. President, I ask unanimous consent to have printed in the Appendix of the Record a copy of my letter of April 11, 1962, to Attorney General Robert F. Kennedy.

There being no objection, the letter was ordered to be printed in the Record, as follows:

APRIL 11, 1962.

The Honorable ROBERT F. KENNEDY,
U.S. Department of Justice,
Washington, D.C.

Re: Nicolae Malaxa.

DEAR MR. ATTORNEY GENERAL: Nicolae Malaxa is a Rumanian alien now residing in New York City. I have received information which leads me to believe that the lawfulness and desirability of his continued presence in this country should be reconsidered. Malaxa first came to this country in 1946 for a temporary visit as a member of the Rumanian economic delegation. He never returned to Rumania but he later claimed to have become an unwanted capitalist there—despite his appointment to this trade mission and despite the fact that the Communists paid him \$2,500,000 in compensation for factories seized by the Russians and allowed him to transfer his funds to the United States.

In 1948, he began steps to gain permanent residence under the Displaced Persons Act. After hearings, the Immigration Service made a favorable recommendation on his application on September 28, 1951, in an opinion by Mr. A. C. Devaney of the Adjudications Division. Malaxa's self-serving, and at times farfetched, testimony was believed and the contrary testimony of many disinterested persons was rejected in instance after instance. The recommendation failed to receive necessary congressional approval and died. An attempt in Congress to adjust his status by joint resolution was then unsuccessful also.

Malaxa next moved under the Immigration and Nationality Act of 1952. He was sole owner of Western Tube Corp., which ostensibly planned to build a seamless tubing plant in Whittier, Calif. His corporation filed a petition seeking a first preference quota for Malaxa on the grounds that the corporation urgently needed his services for building the California plant. The petition was approved and Malaxa was admitted from Canada as a permanent resident on September 29, 1953. Western Tube Corp. soon became inactive. It never got beyond the organizational stages and the California plant was not built. Apparently, the only objective which it achieved was to obtain permanent residence in the United States for its owner.

The apparent sham of the Western Tube operation led the Service to attempt to exclude Malaxa when he reentered the country in December 1955, after a stay in Argentina of almost a year. In addition to alleged fraud in the Western Tube application, charges were made involving Malaxa's connections with the Rumanian Iron Guard and the German Nazis prior to and during World War II and dealings with the Communists after World War II.

The special inquiry officer found against Malaxa on all points and ordered him deported. His findings were based partly upon refusals to answer questions asked by the examining officer concerning Malaxa's past Iron Guard, Nazi, and Communist associations. Malaxa contended that an examining officer was not authorized for the hearing and that he could only be required to submit to questioning by the special inquiry officer. The special inquiry officer ruled that Malaxa should answer the examining officer's questions and chose to draw adverse inferences from Malaxa's silence rather than to propound the questions himself. As a result of this procedural dispute, Malaxa's past was not fully explored.

The Board of Immigration Appeals reversed the special inquiry officer in a split

decision, holding that the inquiry officer could not draw inferences from Malaxa's silence and that he should have questioned Malaxa instead of relying on the examining officer. The board expressly decided (from a record which was obviously incomplete because of Malaxa's silence) that Malaxa was never affiliated with the Iron Guard, Nazis, or Communists.

Attorney General Rogers then reviewed the case. He agreed with the inquiry officer that Malaxa should have responded to the examining officer's questions and that adverse inferences properly could be drawn from his refusal. Despite this, he affirmed the Board's order admitting Malaxa to permanent residence. Malaxa thus profited from his wrongful refusal to answer questions about his past, because the only consequence was that his past activities were not fully explored for the record. It is hard to see why a final decision was reached favorably to Malaxa on factual issues which he prevented from being fully heard. In the courts, a comparable case would have been remanded for a new hearing in which Malaxa would have responded to questions by the examining officer so that the case could be decided from all relevant evidence.

I realize something can be said for terminating such a case once it is concluded even if the decision was wrong, but new evidence has been revealed which also appears to justify reopening the Malaxa case.

Malaxa has always denied alleged affiliations with the German Nazis, the Rumanian Iron Guard and the Rumanian Communists. There has always been strong evidence against him but I will not attempt to review it here except to mention a few of the incriminating facts concerning his connections with the terrorist Nazi Iron Guard. In the 1951 proceedings, the testimony of several prominent Rumanians linked Malaxa to the Iron Guard at the time of its January 1941 uprising when it was finally suppressed by General Antonescu. Marion Novotny told of seeing iron guards enter Malaxa's home to obtain arms reportedly stored there for use in the revolt. Alexander Cretzianu, who was then serving in the Rumanian foreign office, testified that during the uprising General Antonescu told him of learning from his secret service and German officers that Malaxa was the financial backer of the Iron Guard. Max Ausnit, a leading Rumanian industrialist, identified Malaxa as the Iron Guard's financial backer at the time. This and similar testimony was simply denied by Malaxa and his word was accepted, as it apparently again was by the Board of Immigration Appeals and Attorney General Rogers in 1958.

Now it appears that official German war documents published by the State Department in 1960 refute Malaxa's testimony and confirms the testimony against him. At page 1050 of the documents on German foreign policy appears Document 823, a secret telegram dated January 8, 1941, to the German Foreign Ministry from Fabricius, the German Minister in Rumania. Fabricius referred to Malaxa as "Carol's former friend and the present financial mainstay of the Legionnaires." He added that the Legionnaires (Iron Guard) "let this clever big industrialist finance them. He has in his plants the leader of the Legionnaire labor organization, Gana, and there the green flags of Sima flutter everywhere." Of General Antonescu's distrust of Malaxa, Fabricius reported: "The general . . . would like best to send Malaxa and his family off to Germany in order to get rid of them for a while. In reply to a question from him, I told him that, if he